

MINUTES
POLICE AND FIRE COMMISSION
Thursday, September 10, 2015
City Hall, Room 310
4:30 PM

MEMBERS PRESENT: Commissioners Rod Goldhahn, David Nelson, Barbara Dorff, Justin Mallett and Nancy Schopf

OTHERS PRESENT: Interim Police Chief Jim Lewis, Fire Chief David Litton, HR Operations Manager Melanie Falk, HR Generalist Jen Smits, Attorney Kyle Gulya (von Briesen and Roper, s.c.) and Attorney Tony Wachewicz (Davis and Kuelthau)

1. Roll call.

The meeting was called to order at 4:30 p.m. by President Goldhahn. Roll call was taken. Comm. Mallett had not yet arrived.

2. Approval of the minutes from the meeting of the Police and Fire Commission held August 6, 2015 and approval of the minutes from the special meeting of the Police and Fire Commission held August 27, 2015.

Comm. Goldhahn requested a motion to approve the meeting minutes as submitted. Motion made by Comm. Dorff, second by Comm. Schopf. Motion carried.

3. President's Report.

Comm. Goldhahn stated that the Police and Fire Commission has by-laws which he had not previously been aware of. Comm. Goldhahn had been looking to see if the Commission had standing hearing rules. He did not find any active hearing rules, but he found the by-laws. Comm. Goldhahn provided copies of the by-laws to the Commissioners to review, and stated that if there are any questions or suggestions to make changes, Commissioners should contact either Comm. Goldhahn or HR Operations Manager Melanie Falk so that it can be discussed at a future meeting. Comm. Goldhahn stated that the by-laws are based on statutes, and the by-laws give guidance when the statutes are unclear.

4. Communications.

a. Budget Status Report

b. Budget Spreadsheet

Comm. Goldhahn commented that the Commission is reaching the end of the recruiting budget. A question was asked if the budget would get the Commission to the end of the year. Comm. Goldhahn stated there would need to be adjustments.

Comm. Goldhahn requested a motion to accept and place the communications on file as received. Motion made by Comm. Schopf, second by Comm. Nelson. Motion carried.

5. Report from the Chiefs.

Fire Chief David Litton reported that the new water boat has been delivered, and training for department staff finished up on Wednesday, September 9th. The hazmat team initiated the efforts of obtaining the new fire boat. The department has been working with US Oil, Marathon, West Shore Pipe Line, Cenex, Citgo and several other major terminals over the last 6 months. These industries have provided a grant in the amount of \$225,000 to help fund the boat which has a total cost of \$315,000. The City will pay the remaining \$90,000. The boat is a state of the

art unit that will allow the department the capability to flow high volumes of water off the river through a mobile fire hydrant. The boat will also provide the capability to apply foam which is needed in chemical and gasoline fires. The boat has side, bottom and forward facing sonar with night vision to help locate victims or items in the water. The boat is in service as of Thursday, September 10th. The Police Department has taken the old fire boat and will be utilizing it for the Police Department's rescue team. The new boat is at the South Marina. There will be a media day on Wednesday, September 16th at 11:00 a.m. at the Metro Boat Launch. The companies funding the boat will present their checks at that time, and the department will demonstrate the capabilities of the boat.

Chief Litton reported that the department also has taken delivery of a mini ambulance. This ambulance will be utilized at special events. In the past, the department has utilized a John Deere Gator, outfitted to fit a patient cot, at special events. The Gator did not provide privacy or weather protection. This mini ambulance is enclosed and will provide privacy, heat and air conditioning for patients. The mini ambulance will be in service at a marathon coming up on Sunday, September 20th and for the next Packer game.

Chief Litton reported on a couple of saves in the last month. Chief Litton read a letter to the Commission regarding a call on Thursday, August 20th. Crews responded to an emergency where a patient was in cardiovascular collapse. The responding crew expertly followed guidelines and protocol and was able to resuscitate the patient through complex and extended effort. The patient was delivered to the hospital with a pulse and blood pressure and was subsequently discharged from the hospital. The department has started a recognition program called the wings of life. Division Chief Bill Zehms started the program. Any time crews are involved in a life-saving situation, the crew will receive a letter explaining the outcome. They will also receive a sticker to place on their fire helmet. This program is good for morale. The wings of life stickers will also be presented to Police Officers involved in these life-saving situations. Chief Litton stated that as these situations arise, he will share these stories with the Commissioners so they are aware of the work these crews are doing out in the field.

Chief Litton reported that Division Chief Bill Zehms has requested to go back to the position of Captain. Division Chief Zehms took on the Division Chief role on an interim basis; however, he has decided for a number of reasons that he would like to go back on the floor as a Captain. Chief Litton stated this position will be open, and it is a hard position to fill. This is a huge loss to the department because he was perfect for this role. He had a lot of contacts in the hospitals and was doing great work. The position is a critical position because of the quality control with the paramedics, integrated health care and programs such as the Hook and Ladder program. Comm. Goldhahn stated that this is unfortunate as Division Chief Zehms sounded very excited about the role and had great plans going forward. Chief Litton stated that the job is one of the most difficult in the department. There is a huge time demand. Chief Litton stated that he provided Division Chief Zehms with an intern to help with the day to day tasks so that he could focus on the big picture, high level items.

Interim Police Chief Jim Lewis reported on a recruitment meeting held in collaboration with Human Resources on September 2nd. Human Resources and the Police Department are working to develop a new recruitment process where applications will be accepted year round using our online application system, NeoGov. Testing will take place quarterly on a Saturday to provide more frequent and consistent testing. The department will also increase targeted recruitment efforts. Chief Lewis stated that the meeting was really good, and it helped to address some issues that have been hanging out there for a while.

Chief Lewis reported on a meeting with Taser on September 8th. Taser presented their body camera system to approximately 30 staff members. In addition to City of Green Bay staff, individuals from Ashwaubenon and Brown County were also present. Taser's presentation

provided information on how the body cameras work and how they connect with other technology.

Chief Lewis reported that the policy has been approved to issue officers Narcan to be used if someone overdoses on heroin. All uniformed officers will have a Narcan kit. A question was asked on whether the Narcan was a mist or injection. Chief Lewis stated that Narcan is a nose spray. There is a brief, 3 minute training to learn how to deploy the Narcan. A physician at one of the local hospitals will provide this training. Chief Lewis stated that this should be a good thing for the community and could potentially save some lives.

Chief Lewis reported on a call that officers responded to on 10th Avenue and Mason Street regarding a disturbance with a hand gun. Once the officers arrived on scene, the person with the hand gun was gone. While the officers were standing on scene, they noticed that one of their fellow officers had a laser beam pointed at his head. There was no way to tell if the laser beam was coming from a laser or a laser rifle beam. It would have been difficult to criticize the officers if they had fired at the source of the laser. The officers took cover and worked their way down the block. There was an individual sitting on the porch of his house. A fight took place, and it turns out that the laser beam was just a laser, not from a gun. There would have been no way for the officer to have differentiated between a laser and a laser rifle beam. Chief Lewis stated that the department was lucky that the situation turned out the way it did.

- 6. Review of Police Chief Applications. The Commission may convene in closed session pursuant to Sections 19.85(1)(c) and (f), Wisconsin Statutes, to consider employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercise responsibility. The Commission may thereafter reconvene in open session pursuant to Section 19.85(2), Wisconsin Statutes, to report the results of the closed session and consider the balance of the agenda.**

Comm. Goldhahn read the closed session statement. A motion was made by Comm. Schopf with a second by Comm. Nelson to go into closed session. Motion carried.

A motion was made by Comm. Nelson to return to open session with a second by Comm. Dorff. Motion carried. Out of closed session Comm. Goldhahn reported that the Commissioners had reviewed the Police Chief applications, and 11 candidates were selected for a phone screening. Comm. Mallett arrived at 5:00 p.m. during closed session.

- 7. Review of Patrol Officer candidate(s). The Commission may convene in closed session pursuant to Sections 19.85(1)(c) and (f), Wisconsin Statutes, to consider employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercise responsibility. The Commission may thereafter reconvene in open session pursuant to Section 19.85(2), Wisconsin Statutes, to report the results of the closed session and consider the balance of the agenda.**

Comm. Goldhahn read the closed session statement. A motion was made by Comm. Schopf with a second by Comm. Dorff to go into closed session. Motion carried.

A motion was made by Comm. Dorff to return to open session with a second by Comm. Schopf. Motion carried. Out of closed session Comm. Goldhahn reported that 2 Patrol Officer candidate backgrounds were reviewed. One candidate was approved to continue in the process, and 1 candidate was rejected.

- 8. Request to Approve Police Lieutenant Promotion.**

Comm. Goldhahn summarized Chief Lewis's memo requesting approval to promote Officer Jason Allen to Lieutenant effective September 11, 2015. A question was asked if Officer Allen will be filling a vacant position. HR Operations Manager Melanie Falk answered that Officer

Allen will be filling a vacant position. Comm. Goldhahn stated the vacancy resulted from a Lieutenant's request to go back to a Patrol Officer position.

Comm. Goldhahn requested a motion to approve Chief Lewis's request to promote Officer Jason Allen to Lieutenant effective September 11, 2015. Motion made by Comm. Dorff, second by Comm. Mallett. Motion carried.

9. Bills.

There were no bills.

10. Set date of next meeting.

The next meeting will be held on Thursday, October 1, 2015, at 3:00 p.m. in Room 310. Comm. Goldhahn commented that the meeting may be cancelled if there are no pressing issues to discuss since the Commission will be meeting later in October to conduct phone screens with Police Chief candidates.

Comm. Goldhahn stated that item 11 needs to be postponed until 6:30 p.m., when the parties have been asked to join. Comm. Goldhahn requested a motion to recess. Motion made by Comm. Schopf, second by Comm. Nelson. Motion carried.

A motion was made by Comm. Dorff to come out of recess with a second by Comm. Schopf. Motion carried.

11. Hearing on charges brought by Robert Benthein, dated March 16, 2015, against Officer Tim Kenney, Officer Riley Peterson, and Lieutenant David Paral. The Commission will conduct a prehearing conference and consider and take action regarding rules for discipline proceedings. Please take notice that pursuant to Section 19.85 (1) (a) and (b) and (c) and (f), Wis. Stats., the Commission may from time to time convene in closed session for the purposes of deliberating on the case before it and/or receiving information regarding the discipline, performance evaluation, or disciplinary data of any public employee. After any closed session during the hearing on this matter, the Commission may reconvene in open session pursuant to Section 19.85(2), Wis. Stats., for purposes of continuing the hearing and conducting all other matters allowed by law.

Comm. Goldhahn stated that the first step in the process is to establish hearing rules. Commissions tend to follow rules of the law but are not as restrictive as the courts and have more flexibility. Comm. Goldhahn stated that flexibility is a good thing but inconsistency is not. As a result, commissions typically establish rules on how they handle disciplinary hearings. Comm. Goldhahn provided the Commissioners with a draft of rules to use and opened the floor for discussion and questions on the rules. With no discussion or questions, Comm. Goldhahn requested a motion to approve the draft rules as the Green Bay Police and Fire Commissioners rules of procedure for disciplinary hearings. Motion made by Comm. Nelson, second by Comm. Mallett. Motion carried.

Comm. Goldhahn stated that the complainant had not yet arrived to the meeting. In order to proceed with the prehearing conference, the complainant needs to be present. Comm. Goldhahn stated that the Commission has some options. The Commission can adjourn and reconvene or a Commissioner can make a motion to dismiss the charges without prejudice allowing the complainant to refile.

Comm. Dorff made a motion to dismiss the charges without prejudice and allow the complainant to refile, second by Comm. Schopf.

Under discussion, Attorney Kyle Gulya, Attorney for the Police and Fire Commission, stated that there are a couple of things that would be helpful to note for purposes of the record of these proceedings. Atty. Gulya gave a visual account of the individuals present at the meeting. Atty.

Gulya stated that all 5 Commissioners were present. Council for the officers who are the subject of these charges was present. Atty. Gulya asked HR Generalist Jen Smits and HR Operations Manager Melanie Falk to identify themselves as present. Atty. Gulya asked for confirmation from Comm. Goldhahn that he had contacted the charging party, Mr. Benthein, by telephone and apprised him of the nature, time, location and importance of this meeting. Comm. Goldhahn confirmed that he had contacted Mr. Benthein. Atty. Gulya asked if there was specific information Comm. Goldhahn could share with those present as to what was communicated to Mr. Benthein. Comm. Goldhahn stated that he communicated to Mr. Benthein that from his complaint the Commission would need to schedule a hearing. As part of the process, there would be a prehearing conference where the rules of the Commission and the process that would be used to conduct the hearing would be shared with all parties. This would be the meeting where those points would be established. Atty. Gulya asked for confirmation from Comm. Goldhahn that he had apprised Mr. Benthein of the time, date and location of the hearings to which Comm. Goldhahn responded that he had. Atty. Gulya asked Comm. Goldhahn if he recalled what day he informed Mr. Benthein of the information. Comm. Goldhahn did not remember the day, but he stated it was the week prior. Atty. Gulya asked Comm. Goldhahn if Mr. Benthein indicated he would attend the meeting. Comm. Goldhahn stated that Mr. Benthein stated he would attend. Atty. Gulya stated that Mr. Benthein had not arrived and was not visually present in the room. Atty. Gulya stated he wanted to make certain the record was clear that Mr. Benthein knew of the meeting and had not shown up at the meeting.

With no further discussion, the motion to dismiss the charges without prejudice and allow the complainant to refile made by Comm. Dorff and seconded by Comm. Schopf carried.

Atty. Gulya made a recommendation that written correspondence be sent to Mr. Benthein at his mailing address apprising him of the Commission's decision.

With no other items on the agenda, Comm. Goldhahn requested a motion to adjourn the meeting. Motion made by Comm. Schopf, second by Comm. Mallett. Motion carried.

The meeting adjourned at 6:48 p.m.

Respectfully submitted,

Lindsay Kiesow, Recording Secretary

APPROVED: _____
Rod Goldhahn, President